



Flexible Working

Date: November 2023

Review date: November 2024

Approved by the Advisory Board: December 2023

Signed:

S. Day

Version Control

Version	Date of review/change(s)	Page and paragraphs affected	Summary of update
November 2022	New policy		
November 2023	No changes		

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1. Introduction

- 1.1 Flexible working is a phrase that describes any working pattern adapted to suit the employee's needs. There are many forms of flexible working including homeworking, part time or reduced hours, job shares, flexi-time, compressed or annualised hours, career breaks, staggered start and finish times or self-rostering. If employees are considering requesting a change in work pattern, they should speak to the Headteacher at as early a stage as possible to explore what opportunities are available.
- 1.2 The Children and Families Act 2014 amended the Flexible Working Regulations to allow all employees to request flexible working. The purpose of the legislation is to create a structured method for employees to formally request a change in their working pattern enabling them to better manage their personal circumstances.
- 1.3 The aim of the right is to ensure that requests for flexible working are given serious consideration. There is no legal entitlement to have the request automatically agreed but rather to initiate discussion and consideration.

2. Eligibility

- 2.1 All employees have the right to make a request for flexibility in their working pattern.
- 2.2 To be eligible to make a request, the employee must:
 - be an employee (not an agency worker)
 - have 26 weeks continuous service with their employer at the date the application is made
 - have not made another application to work flexibly under the right in the past 12 months.

3. Applying for flexible working

- 3.1 Requests for flexible working can be made using *Flexible working application form*.
- 3.2 This is the main opportunity for the employee to set out their desired working pattern and the reasons why they believe it can be implemented. It is a formal application made under the legal right to request flexible working. In all cases, the employee should provide as much detail as possible about the proposed change and why they think it is compatible with the needs of the school. An explanation should be provided of the anticipated effect on the school and colleagues and how all these factors may be dealt with.
- 3.3 There is scope to apply for a wide variety of changes to the standard working pattern and the following list of possible examples of flexible working arrangements is not exhaustive:
 - Part time working – either by working less than full time hours and/or working fewer days.
 - Job sharing – two or more people do one job and split the hours. This can be successful where individual teachers propose and organise their own job-sharing arrangements.
 - Compressed hours – working full time hours over less than 5 days. NB. Consideration would need to be given to an increased workload and that this is being managed appropriately over fewer days.

- Staggered hours – Different start, finish and break times to other workers. Where this can be timetabled successfully (using usual classroom cover options), this can help those who have caring/childcare responsibilities who may need to drop off or collect children.
- Working from home – If a school feels it can support a member of staff (including the Headteacher) to work from home (e.g. to undertake PPE, write up reports) then the decision is for the Headteacher (or Director where it is the Headteacher making the request) to make following the receipt of the request and give it due consideration.
- Part year working - where the employee works only for part of the year but their salary is calculated on a pro-rata basis and paid over the whole year.

3.3 The onus is on the employee to provide a written application to the school well in advance of when they would like the change to take effect.

3.4 The completed application form should be passed to the Headteacher.

4. **Receipt of a request for flexible working**

4.1 Once the completed application form is received by the Headteacher, the process cannot take longer than 3 months (with the exception of extension to the timescale mutually agreed by all parties involved), including the time for an appeal where applicable. A request to extend the timescale may be made because extra time is needed to assess the viability of the flexible working pattern requested.

4.2 The school has a duty to consider the application seriously. A consistent approach to requests is important to remove risk of claims of discrimination and unfair treatment.

4.3 The Headteacher should acknowledge receipt of the request in writing (email is acceptable) as soon as is possible. The Headteacher will arrange to meet with the employee to either agree with the request or to arrange a meeting with the employee to discuss the request.

4.4 Applications from the Headteacher will be considered by the Directors.

5. **Meeting to discuss the request**

5.1 A meeting is an effective way to provide opportunity to discuss the proposed change to the working pattern in more detail. If the Headteacher anticipates that the proposed change will cause difficulties, alternative suggestions should be considered. It is good practice to allow the employee to be accompanied by a companion (i.e. a work colleague or trade union representative) if they request this. The employee should contact their companion to ensure they are free for the meeting. If the companion is unable to attend the initial meeting, the employee can request the meeting to be rescheduled.

5.2 An employee who does not attend a meeting without giving prior notification should contact their Headteacher as soon as possible to explain their absence and to rearrange the meeting. If an employee fails to attend the meeting more than once without a reasonable explanation, the law

allows the school to treat the application as having been withdrawn. The Headteacher can write to the employee to confirm this.

6. Following the meeting to discuss the request

6.1 It is suggested that within 14 days of the meeting the employee should receive written notification from the Headteacher stating either:

- that the new work pattern is accepted and a date on which the new working pattern will start or;
- that the new work pattern has been rejected on clear business grounds (see point 6.3 below) with an explanation as to why the application cannot be accepted and the reasons why. The Headteacher may still wish to explore alternatives to find a working pattern suitable to both parties. Or;
- that further action is needed before notifying the employee of the final decision.

In all cases, Section 2 of the *Flexible working application form* should be used to indicate the decision.

6.2 Any request that is made will be a permanent change to the employee's contractual terms and conditions (unless specifically agreed otherwise). There is no right to revert back to the previous working pattern.

6.3 If there is no clear way of achieving the requested change, Headteachers can refuse requests, supported by a business reason. The business reason must align with one or more of eight prescribed areas (see below). If the application to work flexibly is being declined, before completing the rejection form, the Headteacher must ensure that full consideration has been given to the application. The business grounds for declining the new working pattern and the reasons why the grounds apply in the circumstances must be stated. The Headteacher will need to have an argument which justifies the selected grounds for declining the request. The reason for declining the request must be from the following list:

- burden of additional costs
- detrimental effect on the ability to meet customer demand
- inability to reorganise work among existing staff
- inability to recruit additional staff
- detrimental impact on quality
- detrimental impact on performance
- insufficiency of work during the periods the employee proposes to work
- planned structural changes.

6.4 Headteachers should always be aware of refusing requests and the potential for discrimination claims e.g. an employee who wishes to work flexibly to accommodate their religious beliefs or childcare arrangements. They may have a case for indirect discrimination on the grounds of religion or belief or sex if their requests were unreasonably refused.

6.5 If Headteachers are intending to refuse a request, it is recommended that advice is sought from their HR provider prior to final decision to ensure that the reason for refusal is sound and does not leave the school open to challenge.

7. Right of appeal

- 7.1 The employee has the right to appeal the decision if their request is refused or is only agreed in part. The employee may lodge an appeal within 10 working days of being notified of a decision on their application. This should be done in writing and clearly state the grounds on which they are appealing.
- 7.2 The appeal will be heard within 10 working days. The employee will then be informed of the outcome to their appeal within 10 working days of the appeal meeting. These time limits may be extended with the agreement of both the employee and the school.

8. Extension of time limits

8.1 Section 2 of the *Flexible working application form* can be used when confirming agreement from both parties to extend the time limit for part of the procedure. There may be exceptional circumstances when it is not possible to complete the procedure within the specified time limit. It might be appropriate to extend the time limits in the following circumstances:

- the Headteacher requires extra time to speak to another employee, who is on leave, about whether they could work the hours left uncovered by the employee's requested working pattern
- the employee is going on leave and as such will not be able to attend a meeting within the time limit.

Such extensions of time can only take place if they are agreed by both parties. The Headteacher should confirm agreement to the extension in writing (email is acceptable).

9. Withdrawal of application

9.1 If at any time an employee wishes to withdraw their application, they should notify the Headteacher.

10. Other resources

10.1 For further guidance on how to operate a fair and equal flexible working application process and what to consider when deciding to accept or reject a request, visit the [Making a flexible working request page on acas.org.uk](https://www.acas.org.uk/making-a-flexible-working-request).